

ENVIRONMENTAL PROTECTION COMMISSION
MINUTES
GENERAL MEETING & PUBLIC HEARING
APRIL 7, 2004

The General Meeting was called to order at 7:30 p.m. in Room 119 of the Darien Town Hall.

Commission Members Present: Peter Hillman, Susan Cameron, Robert Kenyon and Nina Miller

Commission Staff Present: Nancy Sarner

General Meeting:

Old Business:

Chairman Hillman read the following agenda item:

Continuation of EPC-9-2004, Lisa Michels, 34 Lake Drive, proposing the replacement of an existing hot tub and installation of a new mechanical pool cover, and perform related site development activities within a regulated area. The property is located on the west side of Lake Drive approximately 550 feet north of the intersection of Philips Lane and Lake Drive, shown on Tax Assessor's Map #30 as Lot #4.

Mr. Hillman reviewed the newly submitted materials from Mrs. Michels, and noted that the proposed hot tub, which could hold ten to twelve adults, was very large. Mrs. Michels said that she would downsize because it was too costly to heat. In response to a question, Mrs. Michels explained that the smaller hot tub would be 88-inch width by 88-inch length by 36-inch height.

Ms. Cameron asked if the map was to scale. Mrs. Michels replied that she drew the deck and hot tub structures on the plan as they would line up with the adjacent structures on the site, not by using the map scale. Ms. Cameron questioned the accuracy of dimensions shown on the plan. Mrs. Michels replied that the survey is incorrect.

Ms. Cameron summarized the permitting history for 24 Lake Drive: In June 2003, the Commission reviewed an application for a sunroom, removal of a large Oak, and installation of a hot tub. Mrs. Michels withdrew the tree removal and hot tub from the application, and the Commission approved the sunroom addition. In July 2003, Mrs. Michels proposed the removal of the large Oak tree, which was approved by the Commission. The current application proposes the installation of the hot tub.

Upon further discussion and review of the materials submitted, the following motion was made: That the Commission deny Wetland Permit Application #EPC-9-2004 based upon its finding that more prudent and feasible alternatives exist. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

New Business:

Chairman Hillman read the following agenda item:

EPC-16-2004, Patricia Leger, 10 Spring Grove Street, proposing to extend the first floor of the residence and construct an entry portico, and perform related site development activities within a regulated area. The subject property is on the east side of Spring Grove Street, approximately 150 feet south of its intersection with Camp Avenue, and is shown on Tax Assessor's Map #8, as Lots #115 & #116.

Mr. Hillman asked the Commission if the application was complete. He stated he believed that the phases discussed by the application were tied together. He said that the current application appeared to propose a garage and addition, but that the Commission could not determine if it is feasible and prudent without first reviewing the drainage information. Ms. Cameron said that neighbors were present to speak regarding the application. Mr. Hillman recommended that if there is public concern, the Commission should move for a Public Hearing. Ms. Sarner explained that, based on her conversations with Mrs. Leger, the garage and addition are not proposed under the application. She stated that although she was told the application proposes only the front portico and entry addition, the submission reflected additional, future work activity. Ms. Miller requested that a soils report be provided. Mrs. Leger said that the Planning and Zoning Office told her to file for the portico separately.

Deborah Burton of 5 Spring Grove Street stated that she felt that the construction of the portico was enough distance away from the water and drainage situation that it should be approved tonight. Ms. Cameron agreed but explained that Mrs. Leger may not be able to spend the money on the front portico if she is unable to do the future work regarding the drainage.

Mr. Hillman suggested that a Public Hearing might be scheduled based upon the public concern regarding 10 Spring Grove Street. He said that the Commission needs to see all of the site activity involving the construction and drainage solution together, and asked if Mrs. Leger would consider withdrawing the current application.

Ms. Sarner said she would be happy to sit down with Mrs. Leger and her agents, Atty. Maslan and Mr. Ritchie, P.E. to discuss the drainage problem on the site and the filing of a comprehensive application. Ms. Cameron noted that the drainage problem on Spring Grove Street does not originate from Mrs. Leger's property but appears to be aggravated by conditions on Ridgeview Avenue.

Mr. Hillman stated that if Mrs. Leger decides to only pursue the portico, the Commission could consider the proposal. Mrs. Leger said that the construction and site alterations were tied together as a concept. Mr. Hillman recommended that the application be withdrawn and that Mrs. Leger meet with Commission staff. He said that a refile for the property would be scheduled directly to a Public Hearing.

Ms. Sarner asked Mrs. Leger if she spoke with neighbors on Ridgeview Avenue. Mrs. Leger replied that she spoke only with Patrick Minogue, her adjoining neighbor.

Upon further discussion, Mrs. Leger decided to withdraw her application and refile for the larger project for drainage improvements, site alterations, and construction at a later date.

Chairman Hillman read the following agenda item:

EPC-17-2004, Michael Panio, 33 Tory Hole Road, proposing the closure and replacement of a 12" broken clay conduit connecting the ponds at 33 and 26 Tory Hole Road with a 12" PVC pipe, the installation of an adjustable spillway with fish and leaf screen, and perform related site development activities within a regulated area. The subject property is located on the north side of Sunswyck Road, approximately 300 feet south of its intersection with Sunswyck Road, and is shown on Tax Assessor's Map #62, as Lot #13.

Mr. Panio presented his application to the Commission. Mr. Hillman said that he thought the application was favorable. Ms. Cameron noted that she found the use of Grass Carp interesting. Mr. Panio briefly discussed his experience with using Grass Carp.

Ms. Miller inquired about the review by the Army Corps of Engineers (ACOE). Mr. Panio explained that Commission Staff had advised him to verify with the CT DEP Dam Safety Division if a state permit is required. He reported that the DEP found that the spillway, or dam, did not warrant a review, but then asked him to contact the Army Corps of Engineers (ACOE) to determine if they would require a permit. The ACOE subsequently granted an exemption since the project does not exceed 5,000 square feet in disturbance.

Mr. Panio explained that some of the existing stones would be removed to improve aesthetics. The clay pipe would be capped. Mr. Panio explained that if the outlet is installed too high, there would be no flow during drought periods, and if too low, it would be easily blocked by leaf debris. He explained that solution was the adjustable spillway, which would be equipped with a fish screen. Mr. Hillman said he found it to be an enhancement.

Ms. Miller asked Mr. Panio if his neighbor, Mrs. Walsh, had concerns. Mr. Panio replied that she owned a separate pond. In response to a question, Mr. Panio stated that there were no other owners of fee for the pond.

Mr. Hillman asked Mr. Panio how the previously approved aerators were functioning. Mr. Panio replied that they were working well and have reduced phosphorus and nitrogen and that the amount of leaf debris within the pond has decreased.

Upon further review of the materials and plans presented, the following motion was made: That the Commission approve Wetland Permit Application #EPC-17-2004 as submitted. The motion was made by Mr. Hillman, seconded by Ms. Miller, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-18-2004, Juan & Leslie Colon-Collazo, 11 Old Oak Road, proposing the installation of a fence and perform related site development activities within a regulated area. The property is located on the northeast side of Old Oak Road approximately 300 feet north of the intersection of Leeuwarden Road and Old Oak Road, shown on Tax Assessor's Map #8 as Lot #5.

Ms. Cameron asked Mr. Colon-Collazo if the fence could be placed around the pool perimeter. Mr. Colon-Collazo replied that he would rather not have a perimeter fence and planned to install a pool cover. Ms. Cameron reported that the silt fence for the backyard is not up, and that an

anti-tracking pad has not been installed. Mr. Colon-Collazo replied that he would clean the street area and anticipated the problem would be fixed once the driveway slope is reduced, as approved under #EPC-104-2003. Ms. Cameron and Ms. Miller stated that the anti-tracking pad and silt sack or hay bales for catch basins need to be installed immediately.

In response to a question, Mr. Colon-Collazo explained that the fence would be installed within the wetlands. Ms. Cameron stated that the fence, as proposed, does not seem to be for the pool. Mr. Colon-Collazo said he wanted the fence in order to comply with Building Department requirements.

In response to questions, Mr. Colon-Collazo explained that the fence would be a stockade fence made from 8-foot sections. He added that the work would not require the removal of any trees.

Mr. Hillman asked if alternatives had been submitted, and if the further review of the application was premature since Mr. Colon-Collazo had outstanding sediment and erosion control problems on the site.

Ms. Cameron agreed with Mr. Hillman that the rigorous structure might be too severe, as proposed. Mr. Colon-Collazo explained that the fence would meet Building Department requirements and that he would rather not consider installing a fence around the pool perimeter. Mr. Hillman asked Mr. Colon-Collazo for information indicating that the fence location is required per Building Code. He advised Mr. Colon-Collazo that since there might be less intrusive alternatives, he should consider withdrawing the application. Ms. Sarner noted that alternatives were available that meet wetlands setback other than installing the fence around the pool perimeter. Mr. Colon-Collazo said he could consider installing the fence over the existing stonewall located within the wetlands. Mr. Hillman and Ms. Cameron agreed that it would be a better alternative than the proposal. Mr. Colon-Collazo said he might be able to build out the wall and install the fence on top. Mr. Kenyon asked if the stonewall has strengthened with concrete. Mr. Colon-Collazo replied that is a drylaid stonewall. Ms. Cameron reminded Mr. Colon-Collazo to describe the process of installing the fence over the stonewall within the new materials that should be submitted regarding the alternatives. Ms. Cameron added that the applicant should address the sediment and erosion controls immediately.

Upon further discussion, the Commission decided to continue the application to the May 5, 2004 meeting in order to receive information regarding alternatives to the proposed fence location.

Chairman Hillman read the following agenda item:

Amendment to EPC-55-2002, Coastal Home Builders, LLC, on behalf of Daphne Cochran & Michael Van Der Kieft, 76 Hanson Road (a.k.a. 75B Hanson Road), requesting interior modifications. The property is located on the south side of Hanson Road approximately 500 feet west of the intersection of Linda Lane and Hanson Road, shown on Tax Assessor's Map #9 as Lot #106.

Mr. Hillman explained that, since the permit amendment proposed only interior alterations, he had no objections to granting the request.

Ms. Cameron asked when the property would be connected to the sewer. Mr. Corbett of Coastal Home Builders replied that they hoped to start construction in June. The EPC decision states that a Zoning Permit shall not be issued until the installation of the town sewer line along Hanson Road is completed.

Ms. Miller asked if new bedrooms would be added. Linda Lawler of Coastal Home Builders replied that the amendment would not include new bedrooms, but would make the residence more owner friendly by moving a first floor bedroom to the second floor.

The application was amended to reflect the revised architectural plan entitled "Cochran Residence, New Residence for Daphne Cochran, 75B Hanson Road, Darien, CT," Sheets A2 and A3, by Shafferstudio, dated 5/15/02, last revised 3/23/04 Per Owner Review.

Chairman Hillman read the following agenda item:

EPC-19-2004, Patricia Browne-Zak, 16 Five Mile River Road, proposing the placement of riprap at the river edge for erosion control, removal of debris and vegetation, installation of a flagstone patio, earthen footpath and plantings, and perform related site development activities within a regulated area. The subject property is located on the east side of Five Mile River Road, approximately 500 feet south of its intersection with Tokeneke Road, and is shown on Tax Assessor's Map #66, as Lot #4.

Chairman Hillman stated that he felt the application might warrant a Public Hearing since the property is located on the banks of the Five Mile River. He explained that the river is a protected resource and a significant amount of work is proposed under the application; therefore, its review would be of interest not only to immediate neighbors but also to others within the Town. Ms. Cameron agreed and stated that any activity along the Five Mile River holds significant public interest.

Chairman Hillman asked the Commission members if other materials or information should be provided, and advised that all discussion should be saved for the Public Hearing. Ms. Miller opinioned that the intentions of the applicant may be good but agreed that the proposal warrants a Public Hearing. Ms. Cameron stated that alternatives to removing all the trees may be available and asked for more information regarding a future "Phase II" planned for the property. Mr. Inch, agent for Mrs. Browne-Zak, stated that the debris could not be removed without cutting the trees. Mr. Hillman said that he understood the applicant's intentions and advised Mr. Inch that the hearing would allow the public a chance to review the materials. Mr. Inch said that the project would stabilize the shoreline and would not involve the removal of the Phragmites or any work directly within the tidal wetlands. Ms. Cameron noted that the project description mentions the removal of invasive plant species.

Mr. Inch explained that the existing line of riprap would be continued and new plantings would be installed. Ms. Cameron noted that Sugar Maples might not be a suitable choice for the site because the tree does not like wet soils. Mr. Inch replied that the area of the proposed Sugar Maple is not wet. Ms. Miller stated that the removal of the Phragmites would be part of Phase II. Mr. Inch affirmed that it was not part of the current proposal.

Ms. Miller inquired to the patio size. Mr. Inch stated that it is shown on the plan. He said the project would provide site access and aesthetics for the property owner, and would not require dredging activity.

Mr. Hillman advised that the discussion of the merits of the application should be saved for the Public Hearing.

Ms. Sarner explained that the project would require review from the State DEP and Town Planning and Zoning Commission.

Upon further discussion, the Commission decided to schedule Wetlands Permit Application #EPC-19-2004 for the May 5, 2004 Public Hearing.

Chairman Hillman read the following agenda item:

EPC-20-2004, Coastal Home Builders, LLC, 43 Stony Brook Road, proposing to construct a new single-family residence and alter the existing drainage pipe under the driveway, and perform related site development activities within a regulated area. The property is located on the west side of Stony Brook Road approximately 200 feet north of the intersection of Stony Brook Road and Stony Brook Road South, shown on Tax Assessor's Map #19 as Lot #27.

Ms. Miller noted that the foundation has been removed, with only the brick patio remaining. Mr. Hillman noted that the regulated activities proposed are the portico and walkway approximately 7 feet from the watercourse, bow windows approximately 24' from the watercourse, and replacement of the damaged culvert beneath the driveway.

Ms. Cameron asked if the applicant could first review the house construction. Doug Milne of Coastal Home Builders, LLC, explained that the residence would sit on a plateau above the watercourse. He stated that the work would not involve the filling of wetlands. Ms. Cameron asked if the residence would encompass the entire level area. Mr. Milne replied that the residence would take up approximately 80-percent of the flat area and would not encroach upon Zoning setbacks. Mr. Corbett of Coastal Home Builders, LLC reviewed site photographs. Ms. Cameron stated that she had concerns regarding runoff. She explained that since most of the slope is rocky, the runoff could carry leaf litter into the waterway. She asked what type of runoff controls would be provided. Mr. Corbett replied that the jagged rocks would collect the leaf litter. Ms. Miller cautioned that leaves should not be blown into the watercourse. Mr. Corbett suggested that since the front yard area adjacent to the watercourse is minimal, it would not be a concern.

Ms. Cameron asked how much larger the proposed residence would be to the pre-existing residence. Mr. Milne replied that the proposed total living area, not footprint, would be approximately 1,000 square feet larger because additional living area would be added over the garage. He noted that the proposed structure would be angled and approximately 6 feet narrower than the previous residence, the a.c. units would be installed in the rear, and the house would be connected to town sewer.

Ms. Miller asked about the proposed driveway work. Mr. Milne replied that the driveway would remain asphalt, and the damaged culvert would be replaced. He stated that they executed a

maintenance agreement with the neighbor, Mr. Dale, to be carried with the property. Mr. Milne noted that similar to the culvert repair conducted last year by Mr. Dale, the pipe would be enlarged from 10 inches to 18 inches.

Mr. Milne stated that the foundation would remain outside the 50-foot setback area within a previously disturbed area. He noted that the pre-existing house also had a portico and walkway within the regulated area.

Ms. Cameron stated that it was difficult to determine if fill was required. Mr. Milne replied that no filling would be conducted, and reviewed site photographs of the plateau area. He said it was verified on site that day that the edge of the walkway would not encroach upon the top of the slope. He added that no trees would be removed.

Ms. Miller asked about roof leaders and gutters. Mr. Milne replied that they could drain onto grade.

Mr. Hillman asked if anyone from the audience wished to speak regarding this application. Having no response, he continued the discussion of the application.

Upon further review of the materials and plans submitted, the following motion was made: That the Commission approve the above-referenced application as submitted. The work shall conform to the plans entitled "Survey of Property for Coastal Home Builders, LLC, 43 Stony Brook Road, Darien, Conn.," Sheets 1 to 2, by The Peter P. Myer Co., dated Feb. 23, 2004, last revised April 1, 2004. The roof leaders shall not be piped, but output onto grade. The motion was made by Mr. Hillman, seconded by Mr. Kenyon, and unanimously approved.

Public Hearing:

Chairman Hillman read the following agenda item:

Continuation of EPC-5-2004, Peter J. & Patricia A. Daigle, 5 Royle Road, proposing the creation of a new lot, relocation of an existing residence and garage, construction of a new residence and garage, and perform related site development activities within a regulated area. The property is located on the south side of Royle Road at the southwest corner formed by the intersection of Royle Road and Mansfield Avenue, shown on Tax Assessor's Map #6 as Lot #41.

Mark Lebow of William W. Seymour & Associates summarized the presentation from the March 3, 2004 Public Hearing. He stated that the biggest questions that remained from the prior meeting pertained to the function and maintenance of the rain gardens. He said he submitted materials from John Martucci, P.E., regarding rain gardens.

Mr. Hillman stated that the rain gardens seemed to be a good drainage solution. Mr. Lebow said that some midwestern towns are doing away with the more structural drainage devices. Ms. Cameron stated that it is important to note that rain gardens would collect the runoff from the walkways and driveways, and not the entire site. Mr. Lebow said that roof leaders would be connected to an infiltrator. Ms. Cameron explained that old mulch must be removed before new mulch is installed, and noted that the maintenance outline from Mr. Martucci noted this as well. Mr. Lebow said the owners would be responsible for the care of the rain gardens, which are

designed to be maintained like a normal garden. Mr. Hillman recommended that, if approved, the maintenance agreement become part of the resolution.

Ms. Cameron and Ms. Sarner reviewed the types of plants that would be suitable for a rain garden, such as Royal Fern, Bee Balm, Tussock Sedge, Arrowwood, and Highbush Blueberry. Mr. Lebow noted that the plants chosen would be suitable for shady areas. Mrs. Daigle said she would select native species that would work best for the site, and suggested Boxwoods. Ms. Cameron and Ms. Sarner cautioned that Boxwoods would not do well in the wet conditions of the rain gardens.

In response to a question, Mr. Lebow reviewed that a total of seven rain gardens were proposed, four on the western lot and three on the eastern lot.

Mr. Hillman asked if the applicant confirmed that the project posed no net increase in runoff. Mr. Lebow replied that the drainage report by Mr. Martucci confirmed that the runoff would be reduced for most storm events and that excess stormwater storage would be created on site. Mr. Hillman stated that it was his recollection as well, but wanted to get it on the meeting record. Ms. Cameron noted that stormwater galleries were proposed for storage. Mr. Hillman confirmed that Mr. Martucci's report is part of the record.

Ms. Cameron recommended that a bond be posted. Ms. Cameron and Ms. Miller recommended that the bond be set at \$3, 000 to \$3,500.

Upon further review and discussion of the materials and plans presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-5-2004. The application is approved with the following conditions:

1. The work was approved as shown on the plans entitled "Stormwater Drainage Plan, Prepared for Peter J. Daigle and Patricia A. Daigle, 5 Royle Road, Darien, Connecticut" by John R. Martucci, P.E., dated February 20, 2004. Prior to implementation, any possible revisions to the plans, including but not limited to the extension or alteration of approved structure or any new landscaping activity, must be submitted to and reviewed by the Planning and Zoning Office to determine conformance to this approval, and may require an amendment approval or new permit application review by the Environmental Protection Commission.
2. A planting plan for the rain gardens shall be submitted for review by EPC Staff and at least one Commission member prior to the issuance of a Zoning Permit. The planting of the rain gardens is an integral part of the approval; therefore, a Certificate of Occupancy shall not be issued until the planting plan is completed.
3. The rain gardens shall receive routine maintenance: weeding, pruning, replanting and watering (during dry periods). Since the surface of a rain garden is designed as a filter, they shall require cleaning. Twice yearly, in early spring and late fall, sand, debris and leaves must be removed from the surfaces and disposed of off-site in an approved location. Mulch shall be replaced and supplemented as necessary. Old mulch shall be removed prior to the addition of new mulch. The bowl shape of the gardens must be maintained so that they can hold runoff until it is absorbed into the soil.

4. That a performance bond in the amount of three thousand dollars (\$3,000) shall be posted with the Planning and Zoning Office to ensure that the rain gardens are created and planted in accordance with this approval. The bond shall be held for two (2) growing seasons. Half of the amount (\$1,500) shall be returned after the first growing season (no earlier than year after the work is completed). The remaining amount shall be returned at the end of the second growing season to ensure that the new plantings are established. Any diseased or dead plantings must be replaced. According to Section 11.10 of the Town's Inland Wetland and Watercourses Regulations, a Zoning Permit shall not be issued until the bond is provided.

The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-13-2004, Kurt & Claire Locher, 19 Meadowbrook Road, proposing installation of an inground pool, deck expansion, installation of a hot tub, and perform related site development activities within a regulated area. The property is located on the side of east side of Meadowbrook Road, approximately 1,010 feet east of the intersection of Meadowbrook Road and Brookside Road, shown on Tax Assessor's Map #14 as Lot #9.

No one was present on behalf of the applicant. The application was tabled without discussion.

Chairman Hillman read the following agenda item:

EPC-14-2004, Mark DeAngelis & Carmen Molinos, 16 Stony Brook Road, proposing the correction of a violation of the Town's Inland Wetland and Watercourses Regulations, and proposing new regulated activities, including the installation paths, arbor, footbridge and gazebo, relocation of an existing shed, relocation of an existing propane tank, installation of new parking areas, and perform related site development activities within a regulated area. The violation involves the unauthorized clearing of trees and understudy vegetation, disturbance of a stream channel, and associated impacts to the regulated setback and wetland areas. Discussion shall include a review of the unauthorized regulated activities and consideration of proposed landscaping and site improvements. The property is located on the east side of Stony Brook Road approximately 530 feet north of the intersection of Stony Brook Road and West Avenue, shown on Tax Assessor's Map #18 as Lot #85.

Carmen Molinos, property owner, and Kate Throckmorton of Environmental Land Solutions, presented the application and addressed questions from the Commission.

Ms. Throckmorton explained that Mark DeAngelis and Carmen Molinos contacted her last fall regarding the violation. She said that the Town found the violation during a site inspection conducted upon receiving a call regarding work within a potential wetland area.

Ms. Throckmorton reviewed the existing site conditions. She said that the Mr. DeAngelis and Ms. Molinos purchased the property last year and began to make site improvements, partly to control pests. Mr. Hillman asked when the house was purchased. Ms. Molinos replied that they closed in May 2003. Mr. Hillman asked what realtor and attorney were used. In response to

questions, Ms. Molinos explained that Katherine Quirk of Prudential Wheeler Real Estate and Attorney Ernie Abata assisted her with the purchase, but that she did not discuss the regulations with Atty. Abata. Mr. Hillman said he was trying to determine how the violation occurred on the site. He asked Ms. Molinos about her concerns regarding pests. Ms. Molinos replied that, after the closing, rats were discovered and she had been advised to clean up the site. She said that Landscape Contractor Mr. DiSilva conducted the work activity. Mr. Hillman asked Ms. Molinos to give the contractor's information to Ms. Sarner.

Ms. Throckmorton said the rodent, rats and termites had been identified on the property, and the inspector from Orcon recommended to Ms. Molinos that the site should be cleaned up. Mr. Hillman asked if an inspection of the residence was conducted prior to purchase. Ms. Molinos replied that it was and the seller exterminated the termites by treating the house.

Ms. Throckmorton said Ms. Molinos obtained the services of Soil Scientist Otto Theall to conduct a wetland soils investigation upon receiving the Notice of Violation from the Town. Ms. Throckmorton explained that wetlands were flagged on the western and eastern portions of the property, as shown on the plan and survey. She noted that the wetland areas shown on adjacent properties were taken from file surveys received from Commission staff.

Ms. Throckmorton reported that she met with Commission staff twice to resolve discrepancies in their interpretations of current site conditions. She stated that the exposed soil was the result from grubbing activity, and that the larger 24-inch trees remain on property in the eastern area. She noted that, in addition to the mitigation plan, other site improvements had been proposed so that the Commission had the overall site improvement plan to review.

Ms. Throckmorton said that the concern regarding pest control was only part of the purpose of the site work. She noted that, as part of the pest control, debris that provided hiding areas for the rodents was removed to discourage them from the site. She explained that the purpose of the work was, to some extent, a hope to improve the landscape and create new lawn areas. She said that the owners plan to replant the wetlands with perennials and shrubs. Mr. Hillman said that once the new plantings become established, they would be an enhancement to the area. Ms. Cameron added that the mitigation would increase the biodiversity on the site.

Ms. Throckmorton summarized the other site improvements proposed by the application: relocation and extension of the pool fence, installation of a walking path, removal of the culvert and slate, stabilization of the channel, installation of a footbridge and an arbor, lawn extension, relocation of the shed, and planting of perennials and shrubs. Ms. Throckmorton explained that the lawn extension to the left of the pool was a slight increase of approximately 15 feet toward the large trees, and that the trees could be used for long-term demarcation of lawn edge.

Ms. Cameron questioned if the shed was new. Ms. Sarner noted that a 1999 property survey shows the shed and that it is obscured by trees and its shape barely noticeable on the April 2003. Bud McGarry, neighbor, said the shed was on the site since at least 1982.

Ms. Throckmorton continued that the existing asphalt driveway area would be reduced. Asphalt sections would be replaced with pavers, and new parking areas, also constructed with pavers, would be installed. Ms. Throckmorton noted that the size of these proposed parking areas had been reduced from the original plan submission. She added that other plan revisions included the

removal of a gazebo, second pathway and propane tank, and that the propane tank would be relocated to an area outside of the setbacks.

In response to questions, Ms. Throckmorton explained that the shed would be used for landscaping tools. The relocated shed would be reset upon the concrete blocks.

Ms. Throckmorton continued the plan review and explained other site modifications planned included the placement of piers at the end of the driveway, renovation of the foundation plantings, lawn irrigation, relocation of the front stonewall, and drywell.

Mr. Hillman opened the discussion up to the public. After being recognized by the Chair, Mr. Duwan asked if the plan could be turned towards the audience. He explained that he was present to obtain information and learn about the plans. Mr. Hillman asked Ms. Throckmorton to review the planting plan for the audience. Ms. Throckmorton addressed the public as she re-explained the proposed plan. Dan Murphy, neighbor, asked about the clearing that had been conducted. Ms. Throckmorton explained that tree removal conducted to the rear of the pool was outside of the Commission's purview. Mr. Hillman summarized the Commission's jurisdiction. Ms. Throckmorton explained that the wetlands were flagged based upon soil type, and that the regulated area extends 50 feet beyond the wetland boundary. Mr. Hillman stated that during the March 3, 2004 meeting he read the agenda item and immediately moved for a Public Hearing based on type of violation and neighbor concerns. He reported that, at that time, he had told Ms. Molinos that he was appalled by the violation, but that the owners had hired competent firm experts that are sensitive to town and resources. He said that the work would be bonded and likely be an enhancement to the property and neighborhood.

Mr. Duwan inquired about the shed relocation. Ms. Throckmorton replied that the shed would be moved further away from the wetlands and reset upon the concrete blocks.

In response to a question, Ms. Throckmorton explained that the planting plan focuses on the wetland mitigation and does not need to address foundation plantings, which are located beyond the 50-foot setback area.

Mr. McGarry stated that he would like to have screening installed for the driveway and relocated shed. Ms. Carmen stated that she could consider adding additional plantings for screening purposes. Mr. Hillman explained that screening does not fall under the jurisdiction of the Commission. Mr. McGarry said that his main concern is the screening of the shed. Mr. Kenyon asked about the type of foundation plantings to determine if they could be used elsewhere on the site. Ms. Throckmorton replied that the foundation plantings are Taxus and may not be suitable for reuse.

Ms. Cameron summarized the number of regulated activities proposed, and then inquired about the relocation of the front stonewall. Ms. Throckmorton replied that the stonewall does not border a wooded area, but a planting bed of Dogwood trees and Pachysandra. Ms. Cameron recommended that the wall remain in its existing location, or that the planting bed remain and be extended to the relocated stonewall rather than be converted to lawn. Ms. Molinos asked if the Pachysandra area could be used as lawn. Ms. Cameron replied that she had recommended that the Pachysandra be maintained and extended to the relocated stonewall. She advised Ms. Molinos to check with the Department of Public Works regarding the proposed stonewall

location. Ms. Molinos asked if ivy could be used to extend the planting area. Ms. Cameron replied that either Ivy or Pachysandra could be used. Ms. Molinos asked if she could leave the wall in its existing location. Ms. Cameron opined that it would be acceptable.

Mr. George Skelly inquired about the relocation of the pool fence. Ms. Throckmorton explained that the purpose of the fence relocation was to create a more open feel to the property, along with the new planting area. She added that the new fence would be 4 feet in height. Ms. Molinos explained that the existing rail fence would be extended, not painted, and probably constructed of cedar with wire mesh. Mr. Skelly asked if fencing would be placed within the regulated area near the roadway, which he advised the Commission is protected by a deed covenant. He explained that the covenant covered approximately 1/3-acre on his property and on Ms. Molino's property, but that he was not certain of its details. Ms. Molinos said she believes the restricted area is along the southern border, not the roadway. Mr. Skelly explained that the tree line to the right of the Ms. Molino's pool is part of covenant area, and that he recalls that the area cannot be disturbed. Mr. Hillman recommended that more information be obtained regarding the covenant's restrictions and boundaries. At the request of Mr. Duwan, Ms. Throckmorton reviewed the proposed fence location. Mr. Duwan said he was not sure why the fence would improve the property aesthetics. Ms. Molinos explained that currently only a small area of the property is fenced, and that they hope to open up the area to allow them to use and enjoy the entire property. In response to a question, Ms. Throckmorton replied that the fence would not impeded wildlife movement because smaller animals could climb through the mesh and larger animals could jump it. Ms. Molino said that if the Commission is concerned about the covenant restrictions, she would not extend the pool fence behind the rock ledge, but continue the existing line. Mr. Hillman said the Commission must consider all issues that may impact the project.

Ms. Cameron asked about the lawn area to the left of the pool, and asked if the wooded area extended to the fence. Ms. Molinos replied that it was not wooded, but was a lawn and had previously held a swing set that she removed after moving into the residence. Ms. Sarner stated that it was her impression that the area was not a healthy lawn area, and that it still contains gravel left over from a swing set Ms. Molinos has removed. She added that it was not a wooded, natural area.

Mr. Skelly asked if the work would alter the runoff onto his property. Ms. Throckmorton replied that the project would not alter existing drainage patterns and rock ledge in between the two properties serves as a buffer.

Ms. Cameron asked about the culvert removal. Ms. Sarner noted that the culvert in question was located under slate, which would also be removed. Ms. Cameron asked if it would be changed to an open ditch. Ms. Throckmorton replied that the 10-foot section of culvert would be opened into the brook. Ms. Cameron said that this activity would be an improvement as well as eliminate area for rodents.

Ms. Cameron inquired about the proposed parking areas. Ms. Throckmorton explained that the parking areas would be constructed using pervious materials, such as cobblestone or concrete pavers. Mr. Kenyon noted that the plan proposed replacing existing impervious asphalt areas, with the pervious materials. Ms. Cameron explained that under Permit #EPC-104-2003 for 11 Old Oak Road, the Commission required that the owner use pavers for a section of the

driveway, and recommended that, for the current application, the stipulation be made that grasscrete with gravel be used because it is more pervious than cobblestone.

Ms. Cameron discussed the shed. She said that, although screening is not within the purview of the Commission, she felt the addition of three screening trees to the planting plan would be acceptable, since Mrs. Molinos had said she would be opened to the idea.

Ms. Throckmorton clarified that the fence to the right of the pool would extend out from the current location, and not encroach upon the covenant area. Mr. Kenyon said this was a good compromise instead of continuing the application to receive more information regarding the deed restricted area because it would allow for Ms. Molinos and Mr. DeAngelis to begin the remediation work. Mr. Hillman agreed.

Ms. Miller recommended that a performance bond be required. Ms. Cameron agreed, and Mr. Hillman recommended the amount be set for \$7,500 with half returned after the first growing season and the next after the second growing season. He said that there could be an argument to set the amount higher.

Upon further review of the materials and plans presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-14-2004. The application was approved with the following stipulations:

1. The work was approved as shown on the plans entitled "Mitigation Plan – Carmen Molinos & Mark Deangelis, 16 Stony Brook, Darien, Connecticut" by Environmental Land Solutions, dated 2-11-04, last revised 3-29-04. Prior to implementation, any possible revisions to the plans, including but not limited to the extension or alteration of approved structures or any new landscaping activity, must be submitted to and reviewed by the Planning and Zoning Office to determine conformance to this approval, and may require an amendment approval or new permit application review by the Environmental Protection Commission.
2. The new parking areas shall be constructed of pervious paving blocks, such as Turfstone™, filled with gravel or grass.
3. The fence shall not be installed within area(s) restricted by deed covenants.
4. Three trees to be added to the planting plan shall screen the relocated shed.
5. The new lawn area within regulated areas shall be limited to that shown on the approved plan.
6. The existing stonewall within the front yard shall be relocated to the front property line. The existing adjacent planting bed consisting of Pachysandra and Dogwoods shall be extended to the relocated wall to eliminate an area of lawn. The existing edge of the planting bed closest to the residence shall not be changed. Stones from the stonewall shall be left in place, spaced at least 3 feet to 5 feet apart, to demarcate the edge of the planting bed.

7. That a performance bond in the amount of seven thousand five hundred dollars (\$7,500) shall be posted with the Planning and Zoning Office to ensure that the mitigation plan is fully implemented in accordance with this approval. The bond shall be held for two (2) growing seasons. Half of the amount (\$3,750) shall be returned after the first growing season (no earlier than year after the work is completed). The remaining amount shall be returned at the end of the second growing season to ensure that the new plantings are established. Any diseased or dead plantings must be replaced.

The motion was made by Ms. Cameron, seconded by Mr. Hillman, and unanimously approved.

Approval of Minutes:

The meeting minutes for March 3, 2004 were approved, with changes. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

Transmittals from the Planning and Zoning Commission:

1. Dana Arnold, 45 Phillips Lane, SUB #604 – A subcommittee was formed by Ms. Cameron and Ms. Miller to review the plans and conduct a site visit. The subcommittee will forward its comments to the Planning and Zoning Commission.
2. Patricia Browne-Zak, 16 Five Mile River Road, #CSP 193 – The Commission requested that Ms. Sarner advise the Planning and Zoning Commission that wetland permit review for the project, #EPC-19-2004, has been scheduled for a May 5, 2004 Public Hearing.
3. Graham & Bell, 153 West Avenue, SUB #605 – Since the project proposed the protection of the wetland resources through the protection of an open space parcel, a subcommittee review was not determined to be necessary.

Review of Performance Bond Submission, O'Hare Property, 45 Brookside Road:

Ms. Sarner forwarded the bond for approval to the Environmental Protection Commission. Concern was raised regarding the penalty for early withdrawal for moneys placed within the certificate of deposit submitted as the bond. The penalties essentially reduce the amount of money held to cover labor and materials. Therefore, EPC required that the difference is added by Mr. and Mrs. O'Hare to the certificate of deposit or placed within a separate savings account, and shall hold the money for the full term of the bond, three years.

Adjournment: Having no further business to attend to, the Commission adjourned the April 7, 2004 meeting at 11:00 p.m.

Respectfully submitted,

Nancy H. Sarner
Environmental/GIS Analyst